IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 1888 OF 2003

Rajendra Thacker ...Petitioner

V/s.

Maharashtra Housing and
Area Development Authority & Ors. ...Respondents

Ms. Sumedha Rao for the Petitioner

Mr. G.W. Mattos, Assistant Government Pleader,
for Respondent Nos. 1 and 4

Ms. Priti Purandare for Respondent No. 2.

CORAM: DALVEER BHANDARI, C.J., &
S. A. BOBDE, J.
DATE: MARCH 23, 2005.

P.C.:

1. In this petition, the petitioner has prayed that direction be issued to respondent No. 1, especially with regard to the surplus amount of Rs.700 crores and after perusing the same,

to give appropriate directions for the use of the said amount as per the aims and objects of the Maharashtra Housing and Area Development Act, 1976 ("The Act", for short).

2. Pursuant to the show-cause notice issued by this Court, the Deputy Chief Engineer, Transit Camp, Mumbai Building Repairs and Reconstruction Board, has filed two affidavits, one on 16th March, 2005 and the other on 22nd March, 2005. In the affidavit of 16th March, 2005, it is clearly stated that respondent No. 1 had framed a pricing policy, by virtue whereof, the profit generated from selling of tenements constructed for the people belonging to Higher Income Group (HIG) and Middle Income Group (MIG) is used for cross-subsidising the expenditure incurred by respondent No.1 for constructions of tenements in the Housing Scheme meant for Lower Income Group (LIG) and Economically Weaker Section (EWS). It was specifically denied that respondent No. 1, instead of providing housing to the needy people, is selling tenements on huge profits as alleged.

3. In the affidavit filed on 22nd March, 2005, it is stated that the sale-proceeds of tenements under the various categories amounting to approximately Rs.700 crores by the Mumbai Board cannot be termed as 'profits' as the same are also subject to deduction of the construction cost involved for the construction of the tenements, establishment cost, other outgoings, etc. It is further stated that the amounts received by the Mumbai Board cannot be singled out to be termed as 'profits' and the same having been remitted to the funds of the Authority, becomes *Authority Funds,* as contemplated under Section 34 of the Act.

4. The audited account for the year 2003-04 of respondent No. 1 shows a surplus of about Rs. 210 crores. Yet the same would have to be utilised for attaining the aims and objects of respondent No. 1, i.e., undertaking various Housing Projects for the various categories of people of the State of Maharashtra.

5. It is alleged that based on a newspaper report, respondent No.1 gifted away huge plots of land either to Ministers' relatives or builders. In response to that allegation, it was clearly stated that it is incorrect to suggest that the plots have been gifted either to the Ministers' relatives or to any one else. The allegations have been specifically denied. It is also mentioned that there was no move to allot a prime land worth Rs.5 crores at Bandra Reclamation to a private developer. As regards the plot of land at Vinobha Bhave Nagar, Kurla, the allotment in respect thereof has been done by respondent No. 1 under Regulation 16 of the Maharashtra Housing and Area Development (Disposal of Land) Regulations, 1982. The same has been alloted to “Rehebar Foundation”, a charitable trust duly registered under the provisions of the Bombay Public Trusts Act, for constructing a school. It is denied that the said land was allotted to the said trust at a throw-away price, inasmuch as the same was allotted to it in consonance with the pricing policy of respondent No. 1.

6. In view of the reply filed on behalf of respondent No. 1, no further directions are necessary in this Writ Petition. This Writ Petition is accordingly dismissed.

CHIEF JUSTICE

S. A. BOBDE, J.